

JOHN R. KIELTY,

Plaintiff,

vs.

FEDERAL HOME LOAN MORTGAGE
CORP. et al.,

Defendants.

ORDER

I. FACTS AND PROCEDURAL HISTORY

1 of 3

1 DOT were transferred both before and after the HOA foreclosure sale, and on or about July 31,
2 2014, Defendant American Trustee Servicing Solutions, LLC (“ATSS”) recorded a notice of
3 default and election to sell (the “NOD”) as to the Property on behalf of the current holder. (*Id.*
4 ¶¶ 32–40).

5 Plaintiff filed the present quiet title action in state court against the Federal Home Loan
6 Mortgage Corp. (“Freddie Mac”), Nationstar Mortgage, Inc. (“Nationstar”), ATSS, and Edralin.
7 Freddie Mac removed. Freddie Mac and Nationstar jointly answered, and Freddie Mac included
8 a counterclaim for quiet title and a third-party claim against Rancho Lake Condominiums Unit-
9 Owners Association (the “Association”) for wrongful foreclosure, as well as a counterclaim and
10 third-party claim against Kielty and the Association as to the preemption of NRS 116.3116 by 12
11 U.S.C. § 4617(j)(3). Kielty and the Association separately answered the Counterclaim and
12 Third-Party Complaint, and the Court permitted the Federal Housing Finance Agency (“FHFA”) to
13 intervene as conservator for Freddie Mac.

14 **II. DISCUSSION**

15 Freddie Mac and the FHFA have now asked the Court to consolidate the present case
16 with Case No. 2:15-cv-1338 (the “Class Action”) brought by Freddie Mac, the Federal National
17 Mortgage Association (“Fannie Mae”), and the FHFA, currently pending before Chief Judge
18 Navarro. The Class Action seeks declaratory judgment as to the preemption of NRS 116.3116
19 by 12 U.S.C. § 4617(j)(3) against a proposed defendant class comprising all record owners of
20 Nevada properties as to which HOA foreclosure sales had been or will be completed after
21 September 17, 2009 and as to which unsatisfied liens by Fannie Mae or Freddie Mac had
22 attached by the date of the applicable HOA foreclosure sale.

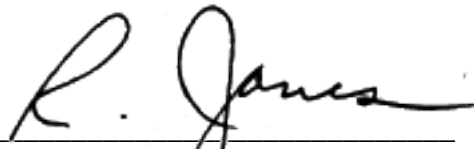
1 The Court denies the motion at this time, without prejudice. Chief Judge Navarro has not
2 yet ruled on the pending motion for certification in the Class Action. As it stands, briefing on
3 that motion will not be complete until early December, and briefing on a motion to dismiss also
4 filed in the Class Action will not be complete until late December. Furthermore, if the class
5 allegations are not dismissed and the class is certified there may be complex issues of claim
6 splitting to address if Counterdefendant is a member of the defendant class in the Class Action.

7 **CONCLUSION**

8 IT IS HEREBY ORDERED that the Motion to Consolidate (ECF No. 35) is DENIED
9 without prejudice.

10 IT IS SO ORDERED.

11 DATED this 25th day of January, 2016.

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15 ROBERT C. JONES
16 United States District Judge
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